

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARTINA HENRY,

Plaintiff,

v.

Case No. 1:15-cv-03241-CM

CAPITAL ONE BANK (USA), N.A.;
CHASE BANK USA, N.A.;
WELLS FARGO FINANCIAL NATIONAL BANK;
US BANK N.A.; LVNV FUNDING LLC;
SECOND ROUND LIMITED PARTNERSHIP;
EXPERIAN INFORMATION SOLUTIONS, INC.;
TRANS UNION, LLC; and EQUIFAX INFORMATION
SERVICES, LLC,

Defendants.

**DEFENDANT EQUIFAX INFORMATION SERVICES LLC'S
ANSWER AND DEFENSES TO PLAINTIFF'S COMPLAINT**

Defendant, Equifax Information Services LLC ("Equifax"), by Counsel, files its Answer and Defenses to Plaintiff's Complaint ("Complaint") as follows:

PRELIMINARY STATEMENT

In answering the Complaint, Equifax states that it is responding to allegations on behalf of itself only, even where the allegations pertain to alleged conduct by all Defendants. Equifax denies any and all allegations in the headings and/or unnumbered paragraphs in the Complaint.

ANSWER

In response to the specific allegations in the enumerated paragraphs in the Complaint, Equifax responds as follows:

1. Equifax denies the allegations in Paragraph 1 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining

allegations in Paragraph 1 and, therefore, denies those allegations.

2. Equifax denies the allegations in Paragraph 2 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 2 and, therefore, denies those allegations.

3. Equifax denies the allegations in Paragraph 3 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 3 and, therefore, denies those allegations.

4. Equifax admits that Plaintiff purports to bring a claim under the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.* (“FCRA”), the Fair Debt Collection Practices Act, and New York State’s Fair Credit Reporting Act. Equifax denies that it violated the FCRA, New York State’s Fair Credit Reporting Act, or any other law alleged, denies that plaintiff was damaged by any action or inaction of Equifax, and denies that Plaintiff is entitled to any of the relief requested. Equifax denies the remaining allegations as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 4 and, therefore, denies those allegations.

5. Equifax admits the Court has jurisdiction in this case and that venue is proper.

6. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 6 and, therefore, denies those allegations.

7. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 7 and, therefore, denies those allegations.

8. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8 and, therefore, denies those allegations.

9. Equifax is without knowledge or information sufficient to form a belief as to the

truth of the allegations in Paragraph 9 and, therefore, denies those allegations.

10. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 10 and, therefore, denies those allegations.

11. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11 and, therefore, denies those allegations.

12. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12 and, therefore, denies those allegations.

13. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 13 and, therefore, denies those allegations.

14. Equifax admits it is a Georgia limited liability company that conducts business in the State of New York. Equifax admits that it is a consumer reporting agency as defined under the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.* Equifax denies the remaining allegations in Paragraph 14.

15. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15 and, therefore, denies those allegations.

16. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 16 and, therefore, denies those allegations.

17. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 17 and, therefore, denies those allegations.

18. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 18 and, therefore, denies those allegations.

19. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 19 and, therefore, denies those allegations.

20. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 20 and, therefore, denies those allegations.

21. Equifax denies the allegations in Paragraph 21 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 21 and, therefore, denies those allegations.

22. Equifax denies the allegations in this paragraph as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 22 and, therefore, denies those allegations.

23. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 23 and, therefore, denies those allegations.

24. Equifax denies the allegations in Paragraph 24 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 24 and, therefore, denies those allegations.

25. Equifax denies the allegations in Paragraph 25 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 25 and, therefore, denies those allegations.

26. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 26 and, therefore, denies those allegations.

27. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 27 and, therefore, denies those allegations.

28. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 28 and, therefore, denies those allegations.

29. Equifax denies the allegations in Paragraph 29 as they relate to Equifax. Equifax

is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 29 and, therefore, denies those allegations.

30. Equifax denies the allegations in Paragraph 30 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 30 and, therefore, denies those allegations.

31. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 31 and, therefore, denies those allegations.

32. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 32 and, therefore, denies those allegations.

33. Equifax admits it received a dispute in 2014 from Plaintiff or on her behalf. The content of the dispute document speaks for itself. Equifax denies the remaining allegations in Paragraph 33 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 33 and, therefore, denies those allegations.

34. Equifax denies the allegations in Paragraph 34 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 34 and, therefore, denies those allegations.

35. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 35 and, therefore, denies those allegations.

36. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 36 and, therefore, denies those allegations.

37. Equifax admits it received a dispute in 2014 from Plaintiff or on her behalf. The content of the dispute document speaks for itself. Equifax denies the remaining allegations in

Paragraph 37 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 37 and, therefore, denies those allegations.

38. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 38 and, therefore, denies those allegations.

39. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 39 and, therefore, denies those allegations.

40. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 40 and, therefore, denies those allegations.

41. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 41 and, therefore, denies those allegations.

42. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 42 and, therefore, denies those allegations.

43. Equifax denies the allegations in Paragraph 43 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 43 and, therefore, denies those allegations.

44. Equifax restates and incorporates its responses to Paragraphs 1 through 43 as if fully set forth herein.

45. Equifax admits that it issued consumer reports regarding Plaintiff. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 45 and, therefore, denies those allegations.

46. Equifax denies the allegations in Paragraph 46 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining

allegations in Paragraph 46 and, therefore, denies those allegations.

47. Equifax denies the allegations in Paragraph 47 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 47 and, therefore, denies those allegations.

48. Equifax denies the allegations in Paragraph 48 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 48 and, therefore, denies those allegations.

49. Equifax denies the allegations in Paragraph 49 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 49 and, therefore, denies those allegations.

50. Equifax denies the allegations in Paragraph 50 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 50 and, therefore, denies those allegations.

51. Equifax denies the allegations in Paragraph 51 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 51 and, therefore, denies those allegations.

52. Equifax denies the allegations in Paragraph 52 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 52 and, therefore, denies those allegations.

53. Equifax denies the allegations in Paragraph 53 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 53 and, therefore, denies those allegations.

54. Equifax is without knowledge or information sufficient to form a belief as to the

truth of the allegations in Paragraph 54 and, therefore, denies those allegations.

55. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 55 and, therefore, denies those allegations.

56. Equifax denies the allegations in Paragraph 56 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 56 and, therefore, denies those allegations.

57. Equifax denies the allegations in Paragraph 57 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 57 and, therefore, denies those allegations.

58. Equifax restates and incorporates its responses to Paragraphs 1 through 57 as if fully set forth herein.

59. Equifax admits that it issued consumer reports regarding Plaintiff. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 59 and, therefore, denies those allegations.

60. Equifax denies the allegations in Paragraph 60 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 60 and, therefore, denies those allegations.

61. Equifax denies the allegations in Paragraph 61 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 61 and, therefore, denies those allegations.

62. Equifax denies the allegations in Paragraph 62 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 62 and, therefore, denies those allegations.

63. Equifax denies the allegations in Paragraph 63 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 63 and, therefore, denies those allegations.

64. Equifax denies the allegations in Paragraph 64.

65. Equifax restates and incorporates its responses to Paragraphs 1 through 64 as if fully set forth herein.

66. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 66 and, therefore, denies those allegations.

67. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 67 and, therefore, denies those allegations.

68. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 68 and, therefore, denies those allegations.

69. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 69 and, therefore, denies those allegations.

70. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 70 and, therefore, denies those allegations.

71. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 71 and, therefore, denies those allegations.

72. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 72 and, therefore, denies those allegations.

73. Equifax denies the allegations in Paragraph 73 as they relate to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 73 and, therefore, denies those allegations.

74. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 74 and, therefore, denies those allegations.

75. Equifax admits Plaintiff has demanded a trial by jury and likewise demands a jury trial in this case.

76. Equifax denies that the Plaintiff is entitled to any relief claimed in the Complaint.

77. Any allegation in Plaintiff's Complaint not heretofore specifically responded to by Equifax is hereby denied.

DEFENSES

Without assuming the burden of proof where it otherwise rests with Plaintiff, Equifax pleads the following defenses to the Complaint:

First Defense

Plaintiff's Complaint fails to state a claim against Equifax upon which relief can be granted.

Second Defense

At all pertinent times, Equifax maintained reasonable procedures to assure maximum possible accuracy in its credit reports.

Third Defense

Plaintiff's damages, if any, were not caused by Equifax, but by another person or entity for whom or for which Equifax is not responsible.

Fourth Defense

Equifax has complied with the FCRA and the New York State Fair Credit Reporting Act in its handling of Plaintiff's credit file and is entitled to each and every defense stated in the Acts and any and all limitations of liability.

Fifth Defense

At all relevant times herein, the Plaintiff's alleged damages, which Equifax denies exist, were aggravated by the failure of the Plaintiff to use reasonable diligence to mitigate the same. Therefore, Plaintiff's recovery, if any, should be barred or decreased by reason of her failure to mitigate alleged losses.

Sixth Defense

Plaintiff cannot meet the requirements of the FCRA or the New York State Fair Credit Reporting Act in order to recover punitive or statutory damages.

Seventh Defense

Equifax adopts by reference the defenses, criteria, limitations, standards and constitutional protections mandated or provided by the United States Supreme Court in the following cases: *BMW v. Gore*, 517 U.S. 559 (1996); *Cooper Indus., Inc. v. Leatherman Tool Group, Inc.*, 532 U.S. 923 (2001); *State Farm v. Campbell*, 538 U.S. 408 (2003), and *Safeco Insurance Co. of America v. Burr*, 551 U.S. 47 (2007).

Eighth Defense

Plaintiff's claims in whole or in part may be barred by the statute of limitations.

Equifax reserves the right to have additional defenses that it learns through the course of discovery.

WHEREFORE, having fully answered or otherwise responded to the allegations in Plaintiff's Complaint, Equifax prays that:

- (1) Plaintiff's Complaint be dismissed in its entirety and with prejudice, with all costs taxed against Plaintiff;
- (2) Equifax be dismissed as a party to this action;

- (3) Equifax receive a trial by jury for all issues so triable;
- (4) Equifax recover such other and additional relief as the Court deems just and appropriate.

Dated: New York, NY
May 18, 2015

KING & SPALDING LLP

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